

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Kathleen O'Shea and Sandeep Trisal on
behalf of themselves and all others similarly
situated,

Plaintiffs,

-against-

P.C. Richard & Son, LLC (d/b/a P.C.
Richard & Son) and P.C. Richard & Son,
Inc. (d/b/a P.C. Richard & Son),

Defendants.

Index No. 2:15-cv-09069-KPF

**NOTICE OF MOTION TO DISMISS
PURSUANT TO FEDERAL RULES OF
CIVIL PROCEDURE 12(b)(1) AND (6)**

PLEASE TAKE NOTICE THAT, pursuant to Federal Rules of Civil Procedure 12(b)(1) and (6), and upon the accompanying Memorandum of Law, the Declaration of Jonathan A. Direnfeld and the exhibits attached thereto and all prior pleadings and proceedings in this action, defendants P.C. Richard & Son, LLC (d/b/a P.C. Richard & Son) and P.C. Richard & Son, Inc. (d/b/a P.C. Richard & Son) will move the Court, before the Honorable Katherine Polk Failla, pursuant to Federal Rules of Procedure 12(b)(1) and (6) for an Order dismissing with prejudice plaintiffs Kathleen O'Shea's and Sandeep Trisal's amended complaint for (i) lack of subject-matter jurisdiction; (ii) failure to state a claim upon which relief can be granted; and granting (iii) such other and further relief that the Court may deem just and proper.

Dated: New York, New York
October 21, 2016

ORRICK, HERRINGTON & SUTCLIFFE LLP

/s/ J. Peter Coll, Jr.

J. Peter Coll, Jr.
51 W. 52nd St.
New York, New York 10019
Tel: (212) 506-5000
pcoll@orrick.com

Jonathan A. Direnfeld (admitted *pro hac vice*)
1152 15th Street, N.W.
Washington, D.C. 20005
Tel: (202) 339-8400
jdirenfeld@orrick.com

Attorneys for P.C. Richard

To:

Benjamin David Elgan
Peter Gil-Montilor
Cuneo Gilbert & Laduca LLP
16 Court Street
Brooklyn NY, 11241
Tel: (929) 258-7816

Chant Yedalian
Chant & Company A Professional Law Corporation
1010 N. Central Ave.
Glendale, CA 91202
Tel: (877) 574-7100